



DISABILITY AND COMMUNICATION ACCESS BOARD

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INTERPRETIVE OPINION

Pursuant to §103-50, Hawaii Revised Statutes (HRS), all buildings and facilities constructed by, or on behalf of the State or any county, shall conform to the 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG) and amendments. In accordance to HRS §103-50 and Chapter 11-217, Hawaii Administrative Rules, the Disability and Communication Access Board has authority to issue interpretive opinions to HRS §103-50 design standards.

Docket: DCAB 2011-15: What types of facilities are considered “transient lodging”?

Summary: The 2004 ADAAG provides scoping and technical requirements for transient lodging facilities. While the 1991 ADAAG described the types of facilities that are considered “transient lodging”, the 2004 ADAAG does not.

Staff receives questions regularly asking if certain types of facilities are transient lodging or residential facilities. There are many questions that staff receives regarding the length of stay and if that plays any role in determining whether a facility must comply with the transient lodging requirements or those for residential facilities.

The DOJ has provided clarification in their Title II regulations as to the types of facilities that are considered “transient lodging”. The DOJ has also issued supplemental regulations for kitchens and accessible routes within transient lodging facilities. The DOJ has provided more clarification within their Title III regulations to define places of lodging. Those clarifications can be seen as providing equivalent facilitation in defining if similar Title II facilities are to comply with the transient lodging or residential facilities sections of the ADAAG.

There are situations in which the State or counties may own and operate lodging facilities that it rents to the public. State and County Facilities subject to HRS §103-50 are enforced by the Department of Justice (DOJ) and must comply with their 2010 Standards and regulations addressing Title II.

Ruling: For buildings or facilities subject to HRS §103-50,

ADAAG Section 224 Transient Lodging Guestrooms

For facilities covered by section 224 Transient Lodging Guestrooms, the term "sleeping room" may be used interchangeably with the term "guest room". Transient lodging facilities include, but is not limited to:

- 1) Housing at a place of education.

EXCEPTION:

Apartments or townhouse facilities that are provided by or on behalf of a place of education, which are leased on a year-round basis exclusively to graduate students or faculty and do not contain any public use or common use areas available for educational programming, are not subject to the transient lodging standards and shall comply with the requirements for residential facilities in sections 233 and 809.

- 2) Places of lodging, if it is:

A) An inn, hotel, or motel;

or

B) A facility that—

- (1) Provides guest rooms for sleeping for stays that primarily are short-term in nature (generally 30 days or less) where the occupant does not have the right to return to a specific room or unit after the conclusion of his or her stay; and
- (2) Provides guest rooms under conditions and with amenities similar to following—
 - (a) On- or off-site management and reservations service;
 - (b) Rooms available on a walk-up or call-in basis;
 - (c) Availability of housekeeping or linen service; and
 - (d) Acceptance of reservations for a guest room type without guaranteeing a particular unit or room until check-in, and without a prior lease or security deposit

- 3) An establishment located within a facility that contains not more than five rooms for rent or hire, and that actually is occupied by the proprietor of the establishment as the residence of the proprietor is not required to comply with section 224.

All units designed and constructed with the intention that they may be used for both residential and transient lodging purposes must be counted for determining the required number of units that must comply with section 224.

[Rul: 01/03/2011] (Auth and Imp: HRS §103-50)

If you have any questions or comments regarding this ruling, please call us at 586-8121.

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